

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

COMPLIANCE FILING IN THE MATTER OF)	
THE APPLICATION OF DELMARVA)	
POWER & LIGHT COMPANY FOR)	PSC DOCKET NO. 19-0474
APPROVAL OF QUALIFIED FUEL CELL)	
PROVIDER PROJECT TARIFF)	
(FILED JULY 25, 2019))	

ORDER NO. 9440

AND NOW, this 20th day of August 2019, the Delaware Public Service Commission (the “Commission”) determines and orders the following:

WHEREAS, on July 7, 2011, the Governor of the State of Delaware signed into law certain amendments (78 Del. Laws c. 99) (July 7, 2001) (the “Amendments”) to the Renewable Energy Portfolio Standards Act, 26 *Del. C.* §§ 351-364 (“REPSA”) that added Delaware-manufactured fuel cells to REPSA and allowed energy output from such fuel cells to be considered a resource eligible to fulfill a portion of a Commission-regulated electric company’s renewable energy credit requirements under REPSA; and

WHEREAS, the Amendments were part of a comprehensive State economic development and renewable energy program in which a new form of base load generation was added in Delaware; and

WHEREAS, the Amendments created a regulatory framework whereby a Commission-regulated electric company and a Qualified Fuel Cell Provider (“QFCP”)¹ will jointly submit tariffs² that enable and obligate a Commission-regulated electric company, as the agent for

¹ A “Qualified Fuel Cell Provider” is defined in 26 *Del. C.* § 352(16).

² The requirements for the tariffs are set forth in a previous Commission Order in PSC Docket 11-362, PSC Order No. 8025 (Sept. 6, 2011). *See also* 26 *Del. C.* § 364(b) and (d).

collection and disbursement, to collect from its customers non-bypassable charges for costs incurred for incremental site preparation, filing, administrative, and other costs incurred by the QFCP, reduced by compensation for any revenues received from PJM³ or its successors at law from the output of the Qualified Fuel Cell Provider Project ("QFCPP");⁴ and

WHEREAS, in accordance with the Amendments, the Commission was directed to either approve or reject all tariff filings as proposed, without alteration or the imposition of any condition or conditions; and

WHEREAS, on August 19, 2011, Delmarva Power & Light Company ("Delmarva") filed an application in Docket No. 11-362 for approval of a new electric tariff for Service Classification QFCP-RC and a new gas tariff for Service Classification LVG-QFCP-RC pursuant to the Amendments; and

WHEREAS, on October 18, 2011, the Commission issued Order No. 8062, which approved Delmarva's tariff filing and determined that the Commission would enter a formal Findings and Opinion in support of Order No. 8062 at a later date; and

WHEREAS, on December 1, 2011, the Commission issued Order No. 8079, which, among other things, adopted Order No. 8062, set forth the Commission's formal Findings and Opinion approving Delmarva's application for a new electric tariff and new gas tariff, and adopted the allowance adjustments made by the Secretary of the Delaware Department of Natural Resources

³ "PJM" means the regional transmission organization that coordinates the movement of wholesale electricity in the PJM region, or its successors at law. *See* 26 *Del. C.* § 352(14).

⁴ Under 26 *Del. C.* § 352(17), a "qualified fuel cell provider project" means a fuel cell power generation project located in Delaware owned and/or operated by a qualified fuel cell provider under a tariff approved by the Commission pursuant to 26 *Del. C.* § 364(d).

and Environmental Control ("DNREC") to the Renewable Energy Credit ("REC")⁵ and Solar Renewable Energy Credit ("SREC");⁶ and

WHEREAS, pursuant to the Commission-approved Tariff for Service Classification QFCP-RC, Delmarva will file on a monthly basis with the Commission a copy of the computation of the Service Classification QFCP-RC Charge ("QFCP-RC Charge") with current factors and reconciliation factors at least thirty days prior to applying such QFCP-RC Charge on customers' bills. *See* P.S.C. Del. No. 8 – Electric, Original Leaf No. 74d, Section F; and

WHEREAS, as noted in Staff's memo for the compliance filing from June 2019, Staff presented discovery to Delmarva in January 2019 concerning three issues related to administrative costs. Staff received responses from Delmarva on Monday, July 1st. After a careful review of the compliance filing, and the responses to discovery, Staff has determined that the filing includes recovery of Non-Executive Annual Incentives ("AIP") included in the Administrative costs for the QFCP-RC. As the Commission is aware, these costs have been disallowed in recent Delmarva electric base rate cases and Staff believes, consistent with the prior Commission decisions they should not be included in the Administrative costs for the QFCP-RC. While Delmarva does not concede including these costs is improper, it has agreed to credit the amount of the AIP from the June actuals in its next monthly compliance filing and to discontinue the recovery of AIP in the monthly compliance filings.

WHEREAS, on July 25, 2019, Delmarva submitted its eighty-ninth monthly compliance filing (the "Compliance Filing") to account for the varying QFCP-RC Charge to be billed in

⁵ Under 26 *Del. C.* § 352(18), a "Renewable Energy Credit" or "REC" means a tradable instrument that is equal to 1 megawatt-hour of retail electricity sales in the State that is derived from eligible energy resources and that is used to track and verify compliance with the provisions of the RPS.

⁶ Under 26 *Del. C.* § 352(25), a "Solar Renewable Energy Credit" or "SREC" means a tradable instrument that is equal to 1 megawatt-hour of retail electricity sales in the State that is derived from solar photovoltaic energy resources and that is used to track and verify compliance with the provisions of RPS.

September 2019, including the typical charges and calculations. In addition, the reconciliation factors (true-ups) of the billing revenues, PJM revenues, and operational costs for the month of June were included in the September 2019 QFCP-RC Charge; and

WHEREAS, the September 2019 QFCP-RC Charge, which is set forth on the attached **Exhibit "A."** will be effective for bills issued between September 1, 2019, and September 30, 2019, absent a determination of manifest error by the Commission; and

WHEREAS, the Commission Staff ("Staff") reviewed the Compliance Filing, the calculations supporting the September 2019 QFCP-RC Charge, and the source documents supporting the true-up of the June 2019 QFCP-RC Charge; and

WHEREAS, Delmarva will credit the amount of the AIP from the June actuals in its next monthly compliance filing and will discontinue the recovery of AIP in its future monthly compliance filings. Staff recommends that the September 2019 QFCP-RC Charge be permitted to take effect temporarily for Delmarva's customer bills issued between September 1, 2019 and September 30, 2019; however, this recommendation is subject to the above requirement and two additional requirements: (i) Delmarva shall provide to Staff, with each future Compliance Filing under REPSA, all documents which Staff requested from Delmarva as part of the review of this and any prior Compliance Filings, including, but not limited to, Delmarva's workpapers; and (ii) this recommendation is subject to the requirement that Staff reserves the right to perform more detailed audits of any and all months included in the Compliance Filing or any future tariff filings made to adjust the QFCP-RC Charge; and

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE
VOTE OF NOT FEWER THAN THREE COMMISSIONERS:**

1. The Commission temporarily approves Delmarva's July 25, 2019, Compliance Filing, including the September 2019 QFCP-RC Charge, which is listed on **Exhibit "A."** attached

hereto. Delmarva shall credit the amount of the AIP from the June actuals in its next monthly compliance filing and discontinue the recovery of AIP in the monthly compliance filings.

2. Delmarva will provide to Staff, with each future Compliance Filing made pursuant to REPSA, all documents that Staff requests or has requested from Delmarva as part of its review of this Compliance Filing, including, but not limited to, Delmarva's workpapers.

3. Staff hereby reserves the right to perform a more detailed audit of any months included in Delmarva's July 25, 2019, Compliance Filing and any and all months included in the Compliance Filing or any future tariff filings made to adjust the QFCP-RC Charge. For any future claimed Tariff K Payment,⁷ Delmarva must provide detailed information on the outage events, including, but not limited to, all the information set forth in the outage event log Staff previously provided to Delmarva, before any recovery of a Tariff K payment will be considered.

4. The Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

Chairman

Commissioner

Commissioner

⁷ See Delmarva Power & Light Company, P.S.C. Del. No. 8 - Electric, Original Leaf No. 74h – 74j, Sections K(1) to K(7), which set forth the requirements for when Delmarva must collect from its customers and make disbursements to the QFCP Generator in the case of a Force Majeure Event or Forced Outage Event.

Commissioner

Commissioner

ATTEST:

Secretary

EXHIBIT "A"

August 2019 QFCP-RC Charge

EXHIBIT A

SEPTEMBER QFCP-RC RATE *

Service Classification	\$ per kWh	<u>Change from Previous Month</u>
Residential	\$0.003964	\$0.000475
Residential- Space Heating	\$0.003964	\$0.000475
Residential Time-of-Use "R-TOU"	\$ -	
Residential Time-of-Use NON-Demand "R-TOU-ND"	\$0.003964	\$0.000475
Small General Service - Secondary Non-Demand "SGS-ND"	\$0.003964	\$0.000475
Space Heating Secondary Service "SGS-ND" and "MGS-S"	\$0.003964	\$0.000475
Water Heating Secondary Service "SGS-ND" and "MGS-S"	\$0.003964	\$0.000475
Outdoor Recreational Lighting Svc - Secondary "ORL"	\$0.003964	\$0.000475
Medium General Service - Secondary "MGS-S"	\$0.003964	\$0.000475
Large General Service - Secondary "LGS-S"	\$0.003964	\$0.000475
General Service - Primary "GS-P"	\$0.003885	\$0.000465
General Service - Transmission "GS-T"	\$0.003794	\$0.000454
Outdoor Lighting PL	\$0.003964	\$0.000475
Outdoor Lighting SL	\$0.003964	\$0.000475

* Effective January 2015 QFCP Filing the Residential Time-of-Use (R-TOU) rate class has been deleted in accordance with Delmarva Power & Light's Tariff leaf changes submitted on May, 1, 2014 associated with PSC Docket No. 13-115.